

AMENDED IN ASSEMBLY AUGUST 21, 2014

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AMENDED IN SENATE MARCH 24, 2014

SENATE BILL

No. 1266

**Introduced by Senator Huff
(Coauthor: Senator Hill)**

February 21, 2014

An act to amend Section 4119.2 of the Business and Professions Code, and to amend Section 49414 of the Education Code, relating to pupil health.

LEGISLATIVE COUNSEL'S DIGEST

SB 1266, as amended, Huff. Pupil health: epinephrine auto-injectors.

(1) Existing law authorizes a school district or county office of education to provide emergency epinephrine auto-injectors to trained personnel, and authorizes trained personnel to use epinephrine auto-injectors to provide emergency medical aid to persons suffering from an anaphylactic reaction. Existing law authorizes each public and private elementary and secondary school in the state to designate one

or more school personnel on a voluntary basis to receive initial and annual refresher training regarding the storage and emergency use of an epinephrine auto-injector, as specified. Existing law authorizes a school nurse, or a person who has received the training described above if the school does not have a school nurse, to, among other things, obtain a prescription for epinephrine auto-injectors.

This bill would instead require school districts, county offices of education, and charter schools to provide emergency epinephrine auto-injectors to school nurses and trained personnel who have volunteered, as specified, and would authorize school nurses and trained personnel to use epinephrine auto-injectors to provide emergency medical aid to persons suffering, or reasonably believed to be suffering, from an anaphylactic reaction. The bill would require school districts, county offices of education, and charter schools to distribute a notice requesting volunteers at least once a year. The bill would require a qualified supervisor of health or administrator at a school district, county office of education, or charter school to obtain the prescription for epinephrine auto-injectors from an authorizing physician and surgeon, as defined, and would authorize the prescription to be filled by local or mail order pharmacies or epinephrine auto-injector manufacturers. The bill would require epinephrine auto-injectors to be stocked and restocked by the qualified supervisor of health or administrator in accordance with specified provisions. By imposing additional duties on local educational agencies, the bill would impose a state-mandated local program.

(2) Existing law requires the Superintendent of Public Instruction to establish minimum standards of training for the administration of epinephrine auto-injectors, as specified, and requires a school district or county office of education to create a plan relating to its use.

This bill would *delete the requirement for creating a plan, would* revise the training requirements, and would require the Superintendent to review the minimum standards of training at least every 5 years. ~~The bill would delete the requirement for creating a plan, and would impose specified reporting requirements relating to the use of epinephrine auto-injectors on specified school employees, local educational agencies, and the State Department of Education.~~ The bill would require a school district, county office of education, or charter school to ensure that each employee who volunteers is provided defense and indemnification by the school district, county office of education, or charter school for any and all civil liability, as specified. The bill would authorize a state

agency, the State Department of Education, or a public school to accept gifts, grants, and donations from any source for the support of the public school carrying out these provisions. By requiring local educational agencies to perform additional duties related to epinephrine auto-injectors, the bill would impose a state-mandated local program.

(3) Existing law authorizes a pharmacy to furnish epinephrine auto-injectors to a school district or county office of education if certain requirements are met.

This bill would also authorize a pharmacy to furnish epinephrine auto-injectors to charter schools pursuant to those provisions.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 4119.2 of the Business and Professions
- 2 Code is amended to read:
- 3 4119.2. (a) Notwithstanding any other law, a pharmacy may
- 4 furnish epinephrine auto-injectors to a school district, county office
- 5 of education, or charter school pursuant to Section 49414 of the
- 6 Education Code if all of the following are met:
- 7 (1) The epinephrine auto-injectors are furnished exclusively for
- 8 use at a school district site, county office of education, or charter
- 9 school.
- 10 (2) A physician and surgeon provides a written order that
- 11 specifies the quantity of epinephrine auto-injectors to be furnished.
- 12 (b) Records regarding the acquisition and disposition of
- 13 epinephrine auto-injectors furnished pursuant to subdivision (a)
- 14 shall be maintained by the school district, county office of
- 15 education, or charter school for a period of three years from the
- 16 date the records were created. The school district, county office
- 17 of education, or charter school shall be responsible for monitoring

1 the supply of epinephrine auto-injectors and ensuring the
2 destruction of expired epinephrine auto-injectors.

3 SEC. 2. Section 49414 of the Education Code is amended to
4 read:

5 49414. (a) School districts, county offices of education, and
6 charter schools shall provide emergency epinephrine auto-injectors
7 to school nurses or trained personnel who have volunteered
8 pursuant to subdivision (d), and school nurses or trained personnel
9 may use epinephrine auto-injectors to provide emergency medical
10 aid to persons suffering, or reasonably believed to be suffering,
11 from an anaphylactic reaction.

12 (b) For purposes of this section, the following terms have the
13 following meanings:

14 (1) “Anaphylaxis” means a potentially life-threatening
15 hypersensitivity to a substance.

16 (A) Symptoms of anaphylaxis may include shortness of breath,
17 wheezing, difficulty breathing, difficulty talking or swallowing,
18 hives, itching, swelling, shock, or asthma.

19 (B) Causes of anaphylaxis may include, but are not limited to,
20 an insect sting, food allergy, drug reaction, and exercise.

21 (2) “Authorizing physician and surgeon” may include, but is
22 not limited to, a physician and surgeon employed by, or contracting
23 with, a local educational agency, a medical director of the local
24 health department, or a local emergency medical services director.

25 (3) “Epinephrine auto-injector” means a disposable drug delivery
26 system with a spring-activated needle that is designed for
27 emergency administration of epinephrine to provide rapid,
28 convenient first aid for persons suffering a potentially fatal reaction
29 to anaphylaxis.

30 (4) “Qualified supervisor of health” may include, but is not
31 limited to, a school nurse.

32 (5) “Volunteer” or “trained personnel” means an employee who
33 has volunteered to administer epinephrine auto-injectors to a person
34 if the person is suffering, or reasonably believed to be suffering,
35 from anaphylaxis, has been designated by a school, and has
36 received training pursuant to subdivision (d).

37 (c) Each private elementary and secondary school in the state
38 may voluntarily determine whether or not to make emergency
39 epinephrine auto-injectors and trained personnel available at its
40 school. In making this determination, a school shall evaluate the

1 emergency medical response time to the school and determine
2 whether initiating emergency medical services is an acceptable
3 alternative to epinephrine auto-injectors and trained personnel. A
4 private elementary or secondary school choosing to exercise the
5 authority provided under this subdivision shall not receive state
6 funds specifically for purposes of this subdivision.

7 (d) Each public and private elementary and secondary school
8 in the state may designate one or more volunteers to receive initial
9 and annual refresher training, based on the standards developed
10 pursuant to subdivision (e), regarding the storage and emergency
11 use of an epinephrine auto-injector from the school nurse or other
12 qualified person designated by an authorizing physician and
13 surgeon.

14 (e) (1) Every five years, or sooner as deemed necessary by the
15 Superintendent, the Superintendent shall review minimum
16 standards of training for the administration of epinephrine
17 auto-injectors that satisfy the requirements of paragraph (2). For
18 purposes of this subdivision, the Superintendent shall consult with
19 organizations and providers with expertise in administering
20 epinephrine auto-injectors and administering medication in a school
21 environment, including, but not limited to, the State Department
22 of Public Health, the Emergency Medical Services Authority, the
23 American Academy of Allergy, Asthma and Immunology, the
24 California School Nurses Organization, the California Medical
25 Association, the American Academy of Pediatrics, Food Allergy
26 Research and Education, the California Society of Allergy, Asthma
27 and Immunology, the American College of Allergy, Asthma and
28 Immunology, the Stanford Allergy Center, and others.

29 (2) Training established pursuant to this subdivision shall include
30 all of the following:

31 (A) Techniques for recognizing symptoms of anaphylaxis.

32 (B) Standards and procedures for the storage, restocking, and
33 emergency use of epinephrine auto-injectors.

34 (C) Emergency followup procedures, including calling the
35 emergency 911 telephone number and contacting, if possible, the
36 pupil's parent and physician.

37 (D) Recommendations on the necessity of instruction and
38 certification in cardiopulmonary resuscitation.

39 (E) Instruction on how to determine whether to use an adult
40 epinephrine auto-injector or a junior epinephrine auto-injector,

1 which shall include consideration of a pupil's grade level or age
2 as a guideline of equivalency for the appropriate pupil weight
3 determination.

4 (F) Written materials covering the information required under
5 this subdivision.

6 (3) Training established pursuant to this subdivision shall be
7 consistent with the most recent Voluntary Guidelines for Managing
8 Food Allergies In Schools and Early Care and Education Programs
9 published by the federal Centers for Disease Control and
10 Prevention and the most recent guidelines for medication
11 administration issued by the department.

12 (4) A school shall retain for reference the written materials
13 prepared under subparagraph (F) of paragraph (2).

14 (f) A school district, county office of education, or charter school
15 shall distribute a notice at least once per school year to all staff
16 that contains the following information:

17 (1) A description of the volunteer request stating that the request
18 is for volunteers to be trained to administer an epinephrine
19 auto-injector to a person if the person is suffering, or reasonably
20 believed to be suffering, from anaphylaxis, as specified in
21 subdivision (b).

22 (2) A description of the training that the volunteer will receive
23 pursuant to subdivision (d).

24 (g) (1) A qualified supervisor of health at a school district,
25 county office of education, or charter school shall obtain from an
26 authorizing physician and surgeon a prescription for each school
27 for epinephrine auto-injectors that, at a minimum, includes, for
28 elementary schools, one regular epinephrine auto-injector and one
29 junior epinephrine auto-injector, and for junior high schools, middle
30 schools, and high schools, if there are no pupils who require a
31 junior epinephrine auto-injector, one regular epinephrine
32 auto-injector. A qualified supervisor of health at a school district,
33 county office of education, or charter school shall be responsible
34 for stocking the epinephrine auto-injector and restocking it if it is
35 used.

36 (2) If a school district, county office of education, or charter
37 school does not have a qualified supervisor of health, an
38 administrator at the school district, county office of education, or
39 charter school shall carry out the duties specified in paragraph (1).

1 (3) A prescription pursuant to this subdivision may be filled by
2 local or mail order pharmacies or epinephrine auto-injector
3 manufacturers.

4 (h) A school nurse or, if the school does not have a school nurse
5 or the school nurse is not onsite or available, a volunteer may
6 administer an epinephrine auto-injector to a person exhibiting
7 potentially life-threatening symptoms of anaphylaxis at school or
8 a school activity when a physician is not immediately available.
9 If the epinephrine auto-injector is used it shall be restocked as soon
10 as reasonably possible, but no later than two weeks after it is used.
11 Epinephrine auto-injectors shall be restocked before their expiration
12 date.

13 (i) A volunteer shall initiate emergency medical services or
14 other appropriate medical followup in accordance with the training
15 materials retained pursuant to paragraph (4) of subdivision (e).

16 ~~(j) (1) No later than 72 hours after an incident of epinephrine~~
17 ~~auto-injector use, the school nurse or the volunteer, in conjunction~~
18 ~~with the school administrator, shall report the incident to the school~~
19 ~~district, county office of education, or charter school on a form~~
20 ~~developed by the department in conjunction with the California~~
21 ~~School Nurses Organization, the California Emergency Medical~~
22 ~~Services Authority, and the American Academy of Pediatrics.~~

23 ~~(2) Beginning July 1, 2016, the school district, county office of~~
24 ~~education, or charter school shall annually report the aggregate~~
25 ~~data of incidents of epinephrine auto-injector use to the department~~
26 ~~in a manner determined by the department. The department shall~~
27 ~~annually publish a summary of the data on its Internet Web site.~~

28 ~~(k)~~

29 (j) A school district, county office of education, or charter school
30 shall ensure that each employee who volunteers under this section
31 will be provided defense and indemnification by the school district,
32 county office of education, or charter school for any and all civil
33 liability, in accordance with, but not limited to, that provided in
34 Division 3.6 (commencing with Section 810) of Title 1 of the
35 Government Code. This information shall be reduced to writing,
36 provided to the volunteer, and retained in the volunteer's personnel
37 file.

38 ~~(l)~~

39 (k) A state agency, the department, or a public school may accept
40 gifts, grants, and donations from any source for the support of the

1 public school carrying out the provisions of this section, including,
2 but not limited to, the acceptance of epinephrine auto-injectors
3 from a manufacturer or wholesaler.

4 SEC. 3. If the Commission on State Mandates determines that
5 this act contains costs mandated by the state, reimbursement to
6 local agencies and school districts for those costs shall be made
7 pursuant to Part 7 (commencing with Section 17500) of Division
8 4 of Title 2 of the Government Code.